

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DIEGO ROSS,

Plaintiffs,

CIV. NO. S- 09-0157 GEB GGH PS

vs.

RICHARD ROSS,

Defendant.

ORDER AND

ORDER TO SHOW CAUSE

Plaintiff is proceeding pro se in this action, referred to the undersigned pursuant to Local Rule 72-302(c)(21). Defendant’s motion to dismiss is presently noticed for hearing on the May 28, 2009, law and motion calendar of the undersigned. Opposition to motions, or a statement of non-opposition thereto, must be filed fourteen days preceding the noticed hearing date. E.D. Cal. L. R. 78-230(c). Court records reflect that plaintiff failed to file an opposition or statement of non-opposition to the motion.

Failure to comply with the Local Rules “may be grounds for imposition by the Court of any and all sanctions authorized by statute or Rule or within the inherent power of the Court.” E.D. Cal. L. R. 11-110; see Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Additionally, “[n]o party will be entitled to be heard in opposition to a motion at oral arguments if written opposition to the motion has not been timely filed.” E.D. Cal. L. R. 78-230(c).¹ Pro se

¹ Moreover, failure to appear at hearing may be deemed withdrawal of opposition to a motion or may result in sanctions. E.D. Cal. L. R. 78-230(j).

1 litigants are bound by the rules of procedure, even though pleadings are liberally construed in their
2 favor. King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987); Jacobsen v. Filler, 790 F.2d 1362,
3 1364-65 (9th Cir.1986). The Local Rules specifically provide that cases of persons appearing in
4 propria persona who fail to comply with the Federal and Local Rules are subject to dismissal,
5 judgment by default, and other appropriate sanctions. E.D. Cal. L. R. 83-183.

6 Good cause appearing, IT IS HEREBY ORDERED that:

7 1. The hearing date of May 28, 2009 is vacated. Hearing on defendant's motion
8 is continued to June 18, 2009.

9 2. Plaintiff shall show cause, in writing, no later than June 4, 2009 why sanctions
10 should not be imposed for failure timely to file opposition or a statement of non-opposition to the
11 pending motion.

12 3. Plaintiff is directed to file an opposition, if any, to the motion, or statement of
13 non-opposition thereto, no later than June 4, 2009. Failure to file opposition and appear at
14 hearing, or to file a statement of non-opposition, will be deemed a statement of non-opposition,
15 and shall result in a recommendation that this action be dismissed.

16 DATED: May 20, 2009

17 /s/ Gregory G. Hollows

18 _____
19 GREGORY G. HOLLOWES
20 U. S. MAGISTRATE JUDGE

21 GGH:076:Ross0157.osc.wpd
22
23
24
25
26